

REMARKS

Claims 1-3 are pending. No amendments have been made by way of the present submission, thus, no new matter has been added.

In view of the following remarks, favorable action on the merits is respectfully solicited.

At pages 2-3 of the outstanding Office Action the Examiner has asserted that the present claims are directed to more than one species of a generic invention. The Examiner asserts that these species lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. The Examiner has designated the species as follows:

Species A: Any optically active compound according to formula (I) of claim 1 defined to contain individually specific functional groups with respect to each  $R^1$  wherein  $R^1$  is nephtyl, anthryl, pyrenyl, or phenanthryl,  $R^2$  is a hydrogen atom,  $R^3$  through  $R^{10}$  as defined in claim 2, and  $R^{11}$  through  $R^{12}$  is a hydrogen as defined in claim 2.

Species B: Any optically active compound according to formula (I) of claim 2 defined to contain individually specific functional groups with respect to each of  $R^1$  is benzothiazolyl,  $R^2$  is a hydrogen atom,  $R^3$  through  $R^{10}$  as defined in claim 2 and  $R^{11}$  through  $R^{12}$  is a hydrogen as defined in claim 2.

Species C: Any optically active compound according to formula (I) of claim 2 as defined to contain individually specific functional groups with respect to each of  $R^1$  wherein  $R^1$  is nephytyl, anthryl, pyrenyl, or phenanthryl,  $R^2$  is as defined in claim 2, and not a hydrogen atom,  $R^3$  through  $R^{10}$  as defined in claim 2, and  $R^{11}$  through  $R^{12}$  as defined in claim 2 and not a hydrogen atom.

Species D: Any optically active compound according to formula (I) of claim 2 defined to contain individually specific functional groups with respect to each of  $R^1$  wherein  $R^1$  is

benzothiazolyl, R<sup>2</sup> as defined in claim 2 and not a hydrogen atom, R<sup>3</sup> through R<sup>10</sup> as defined in claim 2, and R<sup>11</sup> through R<sup>12</sup> bonded and as defined in claim 2.

Species E: Any optically active compound according to formula (I) or claim 2 defined to contain individually specific functional groups with respect to each of R<sup>1</sup> wherein R<sup>1</sup> is aromatic ethynyl group as defined in claim 2, R<sup>2</sup> as defined in claim 2, R<sup>2</sup> as defined in claim 2 R<sup>3</sup> through R<sup>10</sup> as defined in claim 2, and R<sup>11</sup> and R<sup>12</sup> bonded and as defined in claim 2.

Applicants respectfully traverse.

Applicants respectfully submit that the Examiner has failed to establish that the present species lack unity of invention under PCT Rule 13.1. In particular, although the Examiner has asserted that the species lack the same or corresponding special technical feature under PCT Rule 13.2, the Examiner has not established this on the record. The Examiner has simply referred to the particular reference Kenichiro Nakashima, et al., Talanta, 1984, Vol. 25, No. 9, pages 749-751. The Examiner simply alleges that the Kenichiro references teaches a compound that includes the features of Applicant's genus formula (1). However, this is insufficient to shift the burden of persuasion to the Applicants. The Examiner has made no attempt to actually apply the Kenichiro reference against the present claims, thus, Applicants submit that the Examiner has not established that the technical feature as characterized by the Examiner does not constitute a special technical feature as defined by PCT Rule 13.2 and does not define a contribution over the prior art. As such, this unity of invention requirement is traversed.

However in an effort to be fully responsive to the outstanding Office Action Applicants hereby elect Species E. This is an election with traverse.

Based upon the above, Applicants respectfully request that the Examiner withdraw the outstanding Restriction Requirement and search and consider the present claims in their entirety.

If the Examiner has any questions or comments, please contact Craig A. McRobbie, Registration No. 42, 874 at the offices of Birch, Stewart, Kolasch & Birch, LLP.

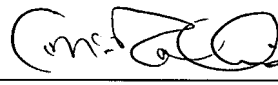
Application No.: 10/525,012

Docket No.: 1422-0663PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: April 5, 2007

Respectfully submitted,

By  \$42,874  
Gerald M. Murphy, Jr.  
Registration No.: 28,977  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant